

REMARKS

Claims 1-28 are pending in the present patent application. Claims 1-28 have been amended.

In response to the Advisory Action, Applicants have amended the claims to overcome the Examiner's objection by removing the non-elected subject matter from the claims according to the Examiner's suggestion. Specifically, the claims have been amended such that (1) the claimed compounds no longer contain the variable X^3 (*i.e.*, formula (a)); (2) the variable R^{15} does not include hetero(C₅-C₁₀)aryl(C₀-C₆)alkyl or hetero(C₈-C₁₂)bicycloaryl(C₀-C₆)alkyl; and (3) the "hetero(C₃-C₁₀)cycloalkyl" group included within the definition of R^{15} has been limited to a --morpholinyl-- group. It is respectfully submitted that this amendment narrowing the scope of the claims are not made for the reason of any prior art issues and thus no prejudice should be attached to the patentability of the unclaimed subject matter, over which Applicants reserve the right to pursue patent protection in a timely filed divisional application.

Claim 10 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting in view of commonly owned copending application No. 10/183,128 ("the 128 application"). Applicants submit respectively that the rejection of claim 10 under obviousness-type double patenting is improper as the 128 application is a continuation-in-part of the present application and, thus, was filed *after* the present application. Since the 128 application was filed after the present application and claims priority to the U.S. filing date of the present application, Applicants do not understand how the patent term of the present application, when granted, would extend beyond the later-filed 128 application. In any event, Applicants request that this rejection be deferred pending some identification of allowable subject matter in either of the present application or the 128 application, as it likely that any valid double patenting issue can be readily resolved (depending upon the subject matter ultimately allowed) through the filing of a suitable terminal disclaimer.

It is respectfully submitted that, upon finding claim 1 allowable, claim 29 should be properly rejoined because it is a method of treatment claim which includes all limitations of claim 1 (see MPEP section 809).

Conclusion

Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record. Applicants respectfully submit that this application is now in condition for allowance. Accordingly, an indication of allowability and an early Notice of Allowance are respectfully requested.

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. 18-1982 in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,

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